

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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PETER L. GRIECO,

Plaintiff,

v.

**ORDER**  
12-CV-429S(Sr)

BRIAN FISCHER, LESTER N. WRIGHT, CARL  
J. KOENIGSMANN, ROBERT SCHATTINGER,  
and TIMOTHY B. GORNY,

Defendants.

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1. On May 10, 2012, Plaintiff commenced this action pursuant to 42 U.S.C. § 1983. Defendants moved to dismiss the Complaint for failure to state a claim on December 10, 2012.

2. On December 12, 2012, this Court referred this matter to the Honorable H. Kenneth Schroeder, Jr., United States Magistrate Judge, to hear and decide all non-dispositive motions or applications, supervise discovery, and prepare and file a report and recommendation containing findings of fact, conclusions of law and a recommended disposition of any dispositive motions pursuant to 28 U.S.C. § 636(b)(1)(A) and (B).

3. In a Report, Recommendation and Order dated July 16, 2013, Judge Schroeder recommended that Defendants' motion be granted as to Defendant Fischer and as to the remaining Defendants in their official capacities, except to the extent that Plaintiff seeks prospective injunctive relief. Judge Schroeder further recommended that the motion be otherwise denied.

4. Plaintiff timely filed an objection with respect to Judge Schroeder's dismissal of the Complaint against Defendant Fischer. This Court has reviewed *de novo* the report and recommendation in light of this objection and, having found no legal or factual error upon such due consideration, the Report, Recommendation and Order is accepted in its entirety.

IT HEREBY IS ORDERED, that this Court accepts Judge Schroeder's Report, Recommendation and Order (Docket No. 15) in its entirety;

FURTHER, that Plaintiff's Objection to this report (Docket No. 17) is DENIED;

FURTHER, that Defendants' motion to dismiss the Complaint (Docket No. 7) is GRANTED in part and DENIED in part, consistent with Judge Schroeder's Report, Recommendation and Order.

SO ORDERED.

Dated: September 30, 2013  
Buffalo, New York

/s/William M. Skretny  
WILLIAM M. SKRETNY  
Chief Judge  
United States District Court